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SUBJECT: TEXT OF AMNESTY DECLARED BY ARMENIA'S PARLIAMENT

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¶1. Enclosed is post's unofficial translation of the text of the proposed amnesty that Armenia's President Serzh Sargsian sent to Hovik Abrahamian, the Speaker of Armenia's National Assembly (parliament), requesting parliament to consider an amnesty that would affect some but not all of the approximately 48 opposition supporters arrested and convicted for their political activities related to Armenia's disputed February 19, 2008 presidential election. The election resulted in ten days of around-the-clock protests by supporters of ex-President Levon Ter-Petrossian contesting his loss, which was followed by security forces breaking up the demonstrations and clashes breaking out between security forces and protesters that resulted in the loss of at least ten lives during the course of March 1-2, 2008. The amnesty was declared late on June 19, exactly 16 months to the day after the disputed election, by a margin of 98-1 votes, with three MPs abstaining. See septel for more on the amnesty and its significance.

¶2. Begin text:

H.E. Excellency NA Speaker

Dear Mr. Abrahamian,

Guided by Article 70 of the Constitution of the Republic of Armenia, I propose to convene an NA extraordinary session on June 19, 2009 at 12:00, to include the proposal of declaring amnesty into the agenda.

Based on provisions of part 1 of Article 81 of the RA Constitution, I propose to declare amnesty in accordance with the following conditions:

¶1. To exempt from liability:

- a) persons sentenced to maximum of three years of imprisonment;
- b) persons, whose sentences were not suspended or deferred;
- c) persons, whose sentences did not envisage deprivation of liberty.

¶2. To exempt from liability persons sentenced to a maximum of five years of imprisonment:

- a) persons with 1st and 2nd category of disability;
- b) persons aged 60;
- c) persons who committed crimes before reaching the age of 18, who had not served prison sentences for committing willful crimes in the past or had served those, but have no criminal record;
- d) veterans of World War II and participants of military operations for the defense of the Republic of Armenia, or persons who, under the legislation of the Republic of Armenia, enjoy a status equivalent to those or that of a victim of repression, and who had not served prison sentences for committing willful crimes in the past or had served those, but have no criminal record;
- e) persons who are the spouses, children and parents of victims of military operations aimed at the defense of the Republic of Armenia or of the people who enjoy the equal status and who had not served

prison sentences for committing willful crimes in the past or had served those, but have no criminal record;
f) persons who committed a crime connected to 2008 March 1-2 events in Yerevan.

13. To exempt from liability persons not convicted previously for willful crimes who are sentenced to
a) a maximum of five years of imprisonment, but who, by the time of entering the amnesty act into effect, had served at least 1/3 of the sentence;
b) a maximum of ten years of imprisonment, but who, by the time of entering the amnesty act into effect, had served at least 1/2 of the sentence.

14. To exempt from liability for committing crimes by negligence:
a) persons who were sentenced to a maximum of five years of imprisonment;
b) persons who were sentenced to a maximum of ten years of imprisonment, but, by the time of entering the amnesty act into effect, had served at least 1/3 of their sentence.

15. Not to initiate criminal prosecutions based on the materials of criminal cases and not to conduct criminal prosecution, as well as to terminate criminal cases pending before the inquiry bodies, the investigation bodies and the courts on the crimes committed prior to June 1, 2009, in which cases:
a) the persons can be or are actually charged with crimes the maximum punishment for which does not exceed three years of imprisonment;
b) the persons listed in paragraph 2 of this Decision can or are actually charged with crimes the maximum punishment for which does not exceed five years of imprisonment;
c) the persons can or are actually charged with crimes by negligence the maximum punishment for which does not exceed five years of imprisonment;
d) the persons can or are actually charged with crimes, for which solely the criminal penalties not linked to deprivation of liberty

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are envisaged.

16. To discontinue monitoring persons paroled pre-term, if, in the event of their failure to be paroled pre-term, they would have nonetheless been freed from liabilities based on paragraphs 1-4 of this proposal.

17. To reduce the sentence:
a) by 2/3 in relations to persons who committed crimes by negligence;
b) by 1/2 in relation to the persons listed paragraph 2 of this decision
c) by 1/3 in relation to persons sentenced to a maximum of 10 years of imprisonment for commitment of willful crimes

18. Amnesty shall not apply to:
a) persons who maliciously violated the order of service of sentence prior to the day of amnesty enactment.
b) persons whose sentences were reduced, or who were freed from serving the sentence for willful crimes by the pardon decree by the President of the Republic of Armenia, or the amnesty decisions of the National Assembly of the Republic of Armenia, or whose criminal charges were dropped in accordance with amnesty decisions of the Republic of Armenia, but who repeatedly committed willful crimes with the exception of instances when 10 years have elapsed from the time of purge of criminal records for commitment of those crimes;
c) persons who repeatedly committed willful crimes at penitentiaries prior to the date of amnesty enactment;
d) persons who remained wanted, with the exception of those who prior to July 31, 2009 inclusive, on their own accord would present themselves before the law enforcement bodies of the Republic of Armenia, or before court if their cases were pending court proceedings;
e) cases of recidivism of extremely high danger;
f) persons who had not compensated other persons for infliction of material damage, as prescribed by court decision;
g) to persons who committed or were convicted for commitment of

crimes pursuant to the following articles of the Criminal Code: 104, 112, 123 (3), 126 (2,3), 131 (2,3), 132 (1), 133 (2, 3), 138 (2, 3), 139 (2, 3), 142, 163, 164, 165 (3, 4), 166 (3), 168, 175, 176 (2,3), 177 (3), 178 (3), 179 (3), 180 (3), 181 (3), 182 (2,3), 183 (3), 185 (3), 190 (2,3), 200 (3,4), 202, 203 (3), 208, 215 (2,3,4), 217-224, 226, 227 (2), 228 (2), 229 (2), 230 (2), 231 (2), 233 (3), 234 (3), 235 (2,3), 237 (2,3), 238 (2,3,4), 241 (3), 242 (3), 245 (3), 246 (3), 247 (3), 248 (3), 254 (3,4), 258 (3,4), 261 (2,3), 262 (2,3), 264 (2), 265, 266 (1,2,3), 268 (2,3), 269, 272, 274 (2), 275 (2,3), 280 (2,3), 284 (4), 287 (4), 296 (2), 297 (2), 299, 300-300.2, 301 (1), 302-305, 311 (3,4), 312 (3), 316 (2), 319, 327, 329 (2), 334.1.2, 336, 340 (2,3,4), 341, 347 (4), 348, 349 (3), 352 (3), 355, 356 (3), 357 (2,3), 358 (2,3), 359 (3,4), 361 (6), 362 (2,3), 363 (3), 364 (3), 365 (3), 366 (3), 367 (3), 368 (3), 369 (3), 371 (3), 373 (4), 375 (2,3), 377 (3), 378 (2), 379-397.1

h) persons who have committed several offences, and at least one of those offences is not covered by this amnesty decision.

i) persons, who were pre term released from punishment for an intentional crime and were convicted again for another intentional criminal offence; committed during the time they have been released from serving the punishment.

j) persons, towards whom punishment hasn't been applied conditionally (were convicted conditionally), and during the probation period they have been convicted again for an intentional offence.

¶9. The amnesty decision does not apply to additional punishments imposed by court verdicts, except for asset/property confiscation, in case the confiscation has not been executed at the moment of promulgation of the Amnesty Decision.

¶10. The amnesty applies to persons, who pass mandatory medical treatment from alcoholism and drug abuse at the places of deprivation of liberty, only after they complete the medical treatment course.

¶11. The amnesty decision applies to persons convicted by the judiciary of other countries, and currently serving their terms in the Republic of Armenia, in accordance with the articles of the Armenian Criminal Code, which define the responsibility for their actions.

¶12. Implementation of this decision shall be entrusted to:

a) courts:

- in relation to persons whose cases are pending court proceedings, but had not been examined prior to entry into force of the Amnesty Decision, or in relation to persons whose cases had been examined, but verdicts did not enter into force;
- in relation to persons whose sentences were suspended, or service of sentence was deferred. The issue of amnesty eligibility for the abovementioned persons shall be resolved by court, based on intermediation of the Subdivision for Alternative Punishment or other authorized bodies in charge of monitoring convicts' behavior;

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b) Criminal Appeal Court of the Republic of Armenia:

- in relation to persons convicted by courts of the Republic of Armenia who serve their sentences outside the borders of the Republic of Armenia;

c) pre-investigation and investigation bodies:

- in relation to persons, whose cases or other related material are being investigated by the abovementioned bodies;

d) heads of penitentiaries:

- in relation to persons who serve their sentence in penitentiaries;

e) Subdivision for Alternative Punishment in relation to persons who

- were convicted to punishment not envisaging deprivation of liberty,
- were paroled pre-term, but whose behavior is monitored;

f) Commander of Penal Battalion:

- in relation to persons, who serve their sentences in the Penal Battalion,

g) Service of Compulsory Enforcement of Court Decisions:

- in relation to persons who were sentenced to confiscation of property.

¶13. Prosecutor shall approve decisions on amnesty application adopted by pre-investigation and investigation bodies, heads of penitentiaries, heads of subdivisions for alternative punishment, heads of subdivisions of Service of Compulsory Enforcement of Court Decisions, as well as Commander of Penal Battalion.

¶14. The Amnesty Decision shall be applied in relation to persons who committed crimes prior to June 1, 2009.

¶15. On grounds of disability and age, the Amnesty Decision shall be applied in relation to persons who were declared 1st and 2nd category disabled up to one day (inclusive) prior to the adoption of the Amnesty Decision, or who turn 60 before September 30, 2009.

¶16. In the event of amnesty application, the issue of purging conviction records shall be resolved in an order prescribed by law.

¶17. In relation to persons kept in penal battalions and penitentiaries of Ministry of Justice of the Republic of Armenia, persons paroled pre-term, as well as those whose service of sentence was deferred or suspended, or those who were sentenced to punishment not envisaging deprivation of liberty, the Amnesty Decision shall be executed by September 30, 2009.

End text.

Pennington